

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREGORY COLBURN, et al.,

Defendants.

Case No. 1:19-cr-10080-NMG

**[PROPOSED] DEFENDANT JOHN WILSON’S REPLY TO
GOVERNMENT’S OPPOSITION TO WILSON’S MOTION TO EXCLUDE
KNOWN FALSE EVIDENCE REGARDING JOVAN VAVIC**

Defendant John Wilson asks that this Court prevent the Government from using evidence or argument that is undisputedly false—that the Government’s own witnesses recognize as false—in a way that would mislead the jury. Wilson does not seek, in the instant Motion, to re-litigate prior orders of the Court or to address relevance issues. The purpose of this Motion is solely to enforce what should be obvious—that the Government may not use evidence or argument it recognizes is false and present it to the jury as truth.

1. Singer’s Tuition Payments for Vavic’s Children Have No Relation to Wilson, and the Government Should Not be Permitted to Mislead the Jury to the Contrary.

Wilson is not seeking reconsideration of the Court’s order allowing evidence of Rick Singer’s unilateral tuition payments for Jovan Vavic’s children.¹ The Court did not reach the issue of *how* the evidence could be used at trial. In his Motion, Wilson detailed admissions by the Government’s own witnesses that any tuition payments were unrelated to the admission of Wilson’s son. In its Opposition, the Government concedes the fact that Wilson was unaware of

¹ Wilson maintains his objection to the admission of this evidence and waives no rights with regard to this evidence; however, re-litigating already decided issues is not the purpose of this Motion.

Singer's payments, Dkt. 2150 at 2:22-23, and suggests that it seeks to introduce the evidence to show how the conspiracy worked. The Government may not seek to use the tuition payments to establish something that is false, that is, a link to Wilson. Rather than using the evidence in a way that is misleading to the jury, then hoping that the jury will find the truth based on all that is before them, Dkt. 2150 at 3:1-5, the Government should be prevented from making misrepresentations at the outset. Accordingly, Wilson requests that the Court give the jury a limiting instruction that while it is allowing in the evidence of tuition payments there is no evidence Wilson knew about them or funded them, that the government is not offering the evidence to suggest that in any way, and the jury should not infer that.

2. The Government Should Be Prohibited from Using Evidence that Falsely Portrays Vavic's Involvement in a Way that Perpetuates the Falsehood.

The issue with the email involving the admission of another student is not whether it is relevant or whether the Government could ever present false statements as evidence of a fraud. The Government does not and cannot dispute that Vavic had no knowledge of or participation in the admission of the student who is the subject of the email. Thus, it would be undisputedly false and misleading to the jury for the Government to use the email for the purpose of establishing involvement by Vavic. This evidence should be excluded, or, in the alternative, the Court should give an appropriate limiting instruction so that a false connection to Vavic is not presented to the jury. Given that it appears the Government may not call Mr. Singer to testify and he will not be cross-examined about this email, a limiting instruction is all the more essential.

Respectfully submitted,

Counsel for John Wilson

/s/ Michael Kendall

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CERTIFICATE OF SERVICE

I hereby certify that the above document is being filed on the date appearing in the header through the ECF system, which will send true copies to the attorneys of record.

/s/ Michael Kendall
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